

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	*	
	*	
v.	*	Criminal No. 1:19-cr-10081-IT
	*	
GORDON ERNST, DONNA HEINEL,	*	
WILLIAM FERGUSON, and JOVAN VAVIC,	*	
Defendants.	*	

PRETRIAL ORDER

After An Initial Pretrial Conference held on August 10, 2021, it is hereby ORDERED that:

1. A hearing on any motion to dismiss, suppress, sever, or other issue that must be resolved prior to trial will be held on October 4, 2021, at 3:30 p.m.
2. Trial shall commence on November 16, 2021, at 9:00 a.m.
3. The parties shall by October 5, 2021 file proposed voir dire questions, proposed jury instructions, and any motions in limine with supporting memoranda. The government shall also file a trial brief by this date. Responses to any motion in limine shall be filed by October 19, 2021.
4. With respect to the dates for government disclosures, the government shall, by September 21, 2021:
 - (a) Absent written objection, provide the defendant with the names and addresses of witnesses the government intends to call at trial in its case-in-chief. If the government subsequently forms an intent to call any other witness, the government shall promptly notify the defendant of the name and address of that prospective witness.

- (b) Absent written objection, provide the defendant with copies of the exhibits and a premarked list of exhibits the government intends to offer in its case-in-chief. If the government subsequently decides to offer any additional exhibit in its case-in-chief, the government shall promptly provide the defendant with a copy of the exhibit and a supplemental exhibit list.

Together with these disclosures, the government shall by September 21, 2021:

- (a) Produce statements (as defined in 18 U.S.C. § 3500(e) and Fed. R. Crim. P. 26.2(f)) of witnesses the government intends to call in its case-in-chief.
- (b) Disclose to the defendant the exculpatory information identified in Local Rule 116.2 that has not been previously produced.
- (c) Disclose to the defendant a general description (including the approximate date, time, and place) of any crime, wrong, or act the government proposes to offer pursuant to Fed. R. Evid. 404(b), such that the defense may review these disclosures and prepare any necessary motions in limine in sufficient advance of the October 5 deadline for filing the same.

5. With respect to the defense disclosures, the defendants shall by November 2, 2021:

- (a) Absent written objection, provide the government with the names and addresses of the witnesses the defendants intend to call in their case-in-chief. If the defendants subsequently form an intent to call any other witness in their case-in-chief, they shall promptly notify the government of the name and address of that witness.

- (b) Absent written objection, provide the government with copies of the exhibits and a premarked list of the exhibits the defendants intend to offer in their case-in-chief. If the defendants subsequently decide to offer any additional exhibits in their case-in-chief, they shall promptly provide the government with a copy of the exhibit and a supplemental exhibit list.
 - (c) Produce statements (as defined in 18 U.S.C. § 3500(e) and Fed. R. Crim. P. 26.2(f)) of witnesses the defendants intend to call in its case-in-chief.
- 6. The parties shall by November 2, 2021:
 - (a) File a written stipulation of any facts that they agree are not in dispute;
 - (b) File a list of all witnesses they may call at trial to be read to the jury during voir dire;
 - (c) File a joint exhibit list of all exhibits that a party may offer at trial, identified and marked by a single sequence of numbers, regardless of which party is the proponent of an exhibit, with gaps as necessary to reflect any documents the parties no longer may offer at trial, and including notation as to those items the party expects to offer and those it may offer if the need arises, and noting as to each document whether the opposing party: (1) objects to the document; (2) may object to the document and reserves its position on the issue at this time; or (3) has no objection to the document. The list shall be filed in the form of the chart in attached Appendix A, with notations regarding objections set forth in column 5, and columns 6 and 7 and 8 left blank;

- (d) Provide the court with a disc containing courtesy copies of all exhibits, numbered according to the single sequence agreed on by the parties. The exhibits shall be pre-marked with exhibit stickers containing the numbering set forth in the joint list of all exhibits, and should have extraneous prior exhibit numbers, exhibit stickers, or other numbering removed;
- (e) File any objections to the other party's proposed voir dire questions and jury instructions. Objections should include citations to authority where appropriate. If the objections include proposed modifications of the voir dire questions or jury instructions, such proposed modifications shall be presented using underlining (for proposed additions) and strike-out (for proposed deletions). Parties shall also provide the clerk, by email or disc, modifiable Microsoft Word copies of this submission.

- 7. A hearing on Motions in Limine shall be held on October 29, 2021 at 2:30 p.m.
- 8. The Final Pretrial Conference shall be held on November 8, 2021, at 4:15 p.m.
- 9. The following period(s) of time are excluded for Speedy Trial Act purposes, pursuant to 18 U.S.C. § 3161(h), for the reasons stated at the Initial Pretrial Conference.

Date: August 30, 2021

/s/ Indira Talwani
Hon. Indira Talwani
United States District Judge